IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

C.E.A. No.52 of 2006
Date of decision: 14.09.2006

Commissioner of Central Excise Commissionerate, Jalandhar.
-----Appellant

Vs.

M/s Northern Railways Mechanical Works Putlighar, Amritsar.
-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mrs. Daya Chaudhary, Assistant Solicitor General of India for the appellant.

ORDER:

This appeal has been preferred under Section 35(G) of the Central Excise Act, 1944 against the order dated 21.2.2005 passed by Customs, Excise and Service Tax Appellate Tribunal, New Delhi.

The Hon'ble Supreme Court has laid down that no litigation between the departments of Government of India should come to the Court without clearance by a Committee constituted by the Government of India for the purpose. Reference may be made to judgments of Hon'ble Supreme Court in ***Oil and Natural Gas Commission*** v. ***Collector of Central Excise*** 1992 Supp. (2) SCC 432 (ONGC-I), ***Oil and Natural Gas Commission*** v. ***Collector of Central Excise*** 1995 Supp. (4) SCC 541 (ONGC-II) and ***Oil and Natural Gas Commission*** v. ***Collector of Central Excise*** 2004(6) SCC 437 (ONGC-III).

Relevant observations of the Hon'ble Supreme Court in ONGC-II are:-

> " 4. There are some doubts and problems that have arisen in the working out of these arrangements which require to be clarified and some creases ironed out. Some doubts persist as to the precise import and implications of the words 'and recourse to litigation should be avoided'. It is clear that the order of this Court is not to the effect that – nor can that be done – so far as the Union of India and its statutory corporations are concerned, their statutory remedies are effaced. Indeed, the purpose of the constitution of the High-Powered Committee was not to take away those remedies. The relevant portion of the order reads: (SCC pp.541-42, para 3)
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> > '3. We direct that the Government of India shall set up a committee consisting of representatives from the Ministry of Industry, the Bureau of Public Enterprises and the Ministry of Law to monitor disputes between Ministry and Ministry of the Government of India, Ministry and public sector undertakings of the Government of India and public sector undertakings in between themselves, *to ensure that no litigation comes to court or to a tribunal without the matter having been first examined by the Committee and its clearance for litigation.* The Government may include a representative of the Ministry concerned in a specific case and one from the Ministry of Finance in the Committee. Senior officers only should be nominated so that the Committee would function with status, control and discipline.'
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> It is abundantly clear that the machinery contemplated is only to ensure that no litigation comes to court without the parties having had an opportunity of conciliation before an in-house committee."

The above view has been reiterated in subsequent judgments in ***C.C.E.*** **v.** ***Jeesop and Co. Ltd.*** (1999) 9 SCC 181, ***Canara Bank v. National Thermal Power Corporation*** (2001) 1 Scc 43, ***Chief Conservator of Forest v. Collector*** AIR 2003 SC 1805, ***M.T.N.L.*** v. ***Chairman, Central Board, Direct Taxes*** AIR 2004 SC 2434, ***Punjab and Sind Bank*** v. ***Allahabad Bank*** (2006) 4 SCC 780.

Accordingly, we relegate the appellant to the remedy of approaching the concerned Committee in accordance with law, in the first instance.

Appeal is disposed of.

(ADARSH KUMAR GOEL)
JUDGE

September 14, 2006
ashwani

(RAJESH BINDAL)
JUDGE